

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Russell C. Muniz, Town Clerk / 797-1023

SUBJECT: Resolution

AFFECTED DISTRICT: Town-Wide

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AN AGREEMENT BETWEEN THE BROWARD COUNTY SUPERVISOR OF ELECTIONS AND THE TOWN OF DAVIE FOR THE PURPOSE OF ENGAGING POLL WORKERS FOR MUNICIPAL ELECTIONS.

REPORT IN BRIEF: The Town of Davie will be holding its general municipal election on March 11, 2003. For convenience, consistency and the proper and efficient conduct of municipal elections, it is common for municipalities in Broward County to specifically request that the Broward County Supervisor of Election's Office select, engage, train, and work directly with the poll workers during municipal elections. The Town desires to delegate and to assign to the Supervisor the power, duty, and authority to engage poll workers for the March 11, 2003 election.

If the Supervisor of Election's Office did not provide this service, Town staff would spend many man hours hiring approximately 300 poll workers and placing them at the 39 different precincts.

PREVIOUS ACTIONS: Resolution 2001-002 was approved on April 5, 2000.

CONCURRENCES: not applicable

FISCAL IMPACT: There is no cost for this service provided by the Supervisor of Elections; however, poll workers will be paid by the Town of Davie upon submittal of attendance records. This cost would be paid by the Town whether or not the Supervisor of Elections hired the workers directly.

RECOMMENDATION(S): Motion to approve the resolution

Attachment(s): Resolution and agreement

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AN AGREEMENT BETWEEN THE BROWARD COUNTY SUPERVISOR OF ELECTIONS AND THE TOWN OF DAVIE FOR THE PURPOSE OF ENGAGING POLL WORKERS FOR MUNICIPAL ELECTIONS.

WHEREAS, for convenience, consistency and the proper and efficient conduct of municipal elections, it is common for municipalities in Broward County to specifically request that the Supervisor of Elections select, engage, train, and work directly with the poll workers during municipal elections and to seek reimbursement from a requesting municipality for these specific services; and

WHEREAS, the Supervisor of Elections possesses the requisite legal authority, expertise, personnel, and equipment to assist a municipality in selecting, engaging, training, and working directly with poll workers in the Town's municipal election; and

WHEREAS, the Town desires to delegate and to assign to the Supervisor of Elections the authority to engage poll workers for the March 11, 2003 municipal election.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie authorizes the appropriate Town officials to execute the agreement with the Broward County Supervisor of elections, attached hereto as Exhibit "A".

SECTION 2. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2003.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2003.

AGREEMENT BETWEEN THE TOWN OF DAVIE AND BROWARD COUNTY
SUPERVISOR OF ELECTIONS FOR THE PURPOSE OF ENGAGING POLL
WORKERS FOR MUNICIPAL ELECTIONS

This Agreement, made and entered into the ____ day of January, 2003 by and between the Town of Davie and the Broward County Supervisor of Elections for the purpose of engaging poll workers for municipal elections.

WITNESSETH:

WHEREAS, Miriam M. Oliphant, is the Supervisor of Elections of Broward County, Florida, pursuant to the provisions of Article VIII Section 1(d) of the Florida Constitution and serves in that capacity as a Constitutional Officer and under the State of Florida Election Code; and

WHEREAS, the Supervisor has specific duties, functions, and responsibilities described in the State of Florida Election Code contained in Chapters 97 through 106 of the Florida Statutes, as amended from time to time; and

WHEREAS, among the duties and functions of the Supervisor is the engagement, hiring, training, and assisting poll workers in connection with Federal, State, County, and certain municipal and district elections described in Chapter 102, Florida Statutes, including the appointment of election boards consisting of an inspector and a clerk who shall perform their duties and functions as provided for in the State Election Code; and

WHEREAS, Chapter 75-350, Laws of Florida (Special Acts, 1975 [the "Act"]), as amended, provides for a uniform filing and election date for all municipal elections conducted in Broward County, Florida, in addition to setting forth the requirements for qualification to office, the conducting of elections and other matters affecting all municipalities within Broward County, Florida; and

WHEREAS, during general elections conducted by the Supervisor, poll workers are engaged by the Supervisor and function as her employees during the course of such elections; however, in municipal elections, the aforesaid poll workers are selected and engaged by the individual municipalities whose compensation is derived and paid for by such municipalities for municipal elections described in the aforementioned Act; and

WHEREAS, for convenience, consistency and the proper and efficient conduct of municipal elections, it is common for municipalities in Broward County to specifically request that the Supervisor select, engage, train, and work directly with the poll workers during municipal elections and to seek reimbursement from a requesting municipality for these specific services; and

WHEREAS, the Supervisor possesses the requisite legal authority, expertise, personnel, and equipment to assist a municipality in selecting, engaging, training, and working directly with poll workers in the Town's municipal election; and

WHEREAS, the Town desires to delegate and to assign to the Supervisor the power, duty, and authority to engage poll workers for municipal elections pursuant to the terms, conditions, and provisions of this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein, the sufficiency of which is hereby acknowledged by the parties, the parties hereto agree as follows:

ARTICLE 1.0

Recitals

1.1 The above recitals are true and correct and are incorporated herein as if set forth in full hereunder.

ARTICLE 2.0

Duties of Supervisor

2.1 The Supervisor shall conduct the municipal election to be held by the Town of Davie on the 11th day of March, 2003, in accordance with the State of Florida Election Code, as amended from time to time.

2.2 At the request of the Town, the Supervisor shall select, hire, engage, and train the requisite number of poll workers for the aforesaid election.

2.3 The Supervisor's decision as to placement and location in precincts and polling places for such designated poll workers shall be determined by the Supervisor in her sole and absolute discretion, upon and subsequent to the execution of this Agreement.

2.4 The Supervisor shall provide Town with payroll sheets after said election(s) for the purpose of the Town's payment of said election day workers.

ARTICLE 3.0

Town's Obligations

3.1 The Town hereby engages the services of the Supervisor of Elections, as set forth in this Agreement in connection with the engagement and hiring of poll workers for all Town elections subject to the terms hereof and unless terminated by either party.

3.2 The Town shall properly and timely pay poll workers/poll clerks as required by law and upon Town checks or warrants issued directly to the poll workers/poll clerks.

3.3 The Town shall not be obligated to pay any additional fees or costs to the Supervisor for the service of hiring and placing poll workers for said election.

3.4 The Town shall set the rate of pay for poll workers and poll clerks.

3.5 The Town shall permit and hereby authorizes the Supervisor of Elections to engage the Broward County Sheriff to hire and place poll deputies for each of the precincts for said election referred to in this Agreement. The Town will also be responsible for directly paying for each of these deputies in the same manner as described in Articles 2.4, 3.2 and 3.4 of this Agreement.

ARTICLE 4.0

Indemnification

4.1 To the extent permitted by law, the Town shall indemnify, hold harmless and defend the Supervisor from and against any and all claims, causes of action, which may arise out of the engagement and hiring of poll workers by the Supervisor or the performance of any of the obligations imposed upon the Supervisor by this Agreement. This indemnification and hold harmless provision shall be liberally construed in favor of the Supervisor and shall apply nonetheless to the extent permitted by law. This indemnification shall permit the Supervisor the right to retain legal counsel of her choosing in any matter or proceeding to which or for which this indemnification arises. Nothing contained herein is intended nor shall be construed to waive the Town's rights and immunities under the common law or Florida Statutes Section 768.28, as amended from time to time.

ARTICLE 5.0

Notices

5.1 All notices, consents, approvals, waivers, and elections which any party shall require or shall desire to make or give under this Agreement shall be in writing and shall be sufficiently delivered:

5.1.1 when mailed by certified mail, postage prepaid, return receipt requested;

5.1.2 by hand delivery to the named individuals representing the party to be notified; or

5.1.3 by private parcel delivery services, or facsimile transmission for which a receipt is provided to the notifying party. Notices, including notice of a change of address or number, shall be addressed or transmitted to the addresses and telephone numbers set forth below, that a party may be designated in the manner prescribed herein:

As to the Supervisor: Miriam M. Oliphant
Supervisor of Elections of Broward County, Florida
115 South Andrews Avenue, Room 102
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7061
Fax: (954) 357-7070

With Copy to: Michael A. Robinson, Attorney
707 SE 3 Avenue, Suite 401
Fort Lauderdale, Florida 33316
Telephone: (954) 524-8060

As to Town: Russell Muniz
Town Clerk
Town of Davie
6591 Orange Drive
Davie, Florida 33314
Telephone: (954) 797-1023
Fax: (954) 797-1087

5.2 Notices, consents, approvals, waivers, and elections given or made as aforesaid shall be deemed to have been given and received on the date of the mailing, delivery, or transmission. When requested by either party, the other shall furnish receipts, paid bills or documents to reasonably verify facts or representations made or pursuant to the requirements of this Agreement.

ARTICLE 6.0

Disputes

6.1 Should a dispute arise regarding the interpretation of this Agreement, or in performance or either party hereunder, and should a court action be commenced, the ultimate prevailing party shall be entitled to receive reasonable attorney's fees and costs at both the trial and appellate levels, including the cost and expense of paralegals. Any litigation arising from this Agreement shall be prosecuted in Broward County, Florida.

ARTICLE 7.0

Miscellaneous

7.1 It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

7.2 Any portion of this agreement that is deemed unconscionable, unconstitutional, or otherwise invalid, shall be severed from the agreement and the rest of the agreement shall remain in full force.

7.3 The terms, provisions, covenants, and conditions herein shall be construed solely in accordance with the laws of the State of Florida.

7.4 This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of each of the parties hereto.

7.5 The parties hereto and their successors and assigns shall not record this Agreement amongst the Public records of Broward County, Florida.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: Town of Davie through its Town Council, signing by and through its Mayor, authorized to execute same by Council action on the _____ day of _____, 2003; and the Broward County Supervisor of Election authorized to execute same.

Town of Davie, through its
Town Council

ATTEST:

Russell Muniz
Town Clerk

By: _____
Harry Venis, Mayor

STATE OF FLORIDA)
)
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this _____ day of January, 2003 by Mayor Harry Venis, who is personally know to me.

NOTARY PUBLIC

Print or Type Name

My Commission Expires:

SUPERVISOR OF ELECTIONS OF
BROWARD COUNTY, FLORIDA

By: _____
Miriam M. Oliphant
Supervisor of Elections

Print Name

Print Name

STATE OF FLORIDA)
)
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this _____ day of _____, 2003 by _____, who is personally know to me or has produced _____ as identification.

NOTARY PUBLIC

Print or Type Name

My Commission Expires: